



OFFICE OF THE GOVERNOR

ROD R. BLAGOJEVICH - GOVERNOR

# NEWS

FOR IMMEDIATE RELEASE:  
July 28, 2004

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## **Governor Blagojevich signs Attorney General Madigan bills to force polluters to clean up mess, pay for damage**

*Legislation sought by Attorney General Lisa Madigan addresses court decision  
and clarifies ban on polluters doing business with the state*

SPRINGFIELD, IL - Governor Rod Blagojevich today signed into law two bills drafted by Attorney General Lisa Madigan aimed at preserving the state's ability to force polluters to clean up their environmental damage and to punish those who deliberately violate environmental protection laws.

House Bill 5823, sponsored by State Rep. Barbara Flynn Currie (D-Chicago) and State Sen. William Haine (D-Alton), addresses a recent Second District Appellate Court ruling (*State of Illinois v. AgPro, Inc. and David Schulte*) in which the court said the Attorney General and local States Attorneys have only limited authority to force polluters to clean up environmental damage they cause. The Appellate Court held that in most cases, all the trial court can do is order the polluter to stop adding to its mess.

"The court's decision threatens a critical authority the state has had for more than 30 years. We must be allowed to do more than just stop pollution, we also need to make those responsible clean up the property they have contaminated," the Governor said.

House Bill 5823 amends the state's Environmental Protection Act to provide that the Court can issue an injunction ordering polluters to clean up the damage they cause.

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In the *AgPro* case, the Ogle County Circuit Court held that the Attorney General's office had proven its case that AgPro, Inc., had contaminated the drinking water of its neighbors with pesticides from its operations. The Attorney General's office subsequently asked the court to order the defendants to clean up the contaminants, reimburse taxpayers for costs of the investigation and prosecution and pay fines. However, in a significant reversal of decades of cases, the court held that Illinois law does not give the court the authority to order the defendants to clean up their pollution. The court reasoned that since AgPro had stopped dumping the pesticides, the company currently was not taking any action that could be "restrained."

An appellate court sided with the circuit court. Madigan said that because of the devastating impact the decision would have on efforts to force polluters to clean up their illegal sites, her office appealed the appellate court decision to the Illinois Supreme Court, which has accepted the appeal.

"Once a site is contaminated, it is not enough to order the polluter to stop further polluting. This amendment restores the critical ability of my office to require a polluter to clean up its illegal mess," Madigan said. "Not only do we have the power to stop something, we have to power to make it right."

"For more than three decades, the Illinois EPA has been referring cases to the Attorney General to pursue remedies to stop or clean up pollution and this legislation ensures that valuable enforcement tool remains available," said Illinois EPA Director Renee Cipriano.

Governor Blagojevich today also signed House Bill 4567, sponsored by State Rep. Ricca Slone (D-Peoria) and State Sen. John Cullerton (D-Chicago), which clarifies a portion of the environmental "bad actor" bill sought by Madigan and signed into law by the Governor last year.

The legislation makes clear that a person or business found by a court or the Illinois Pollution Control Board to have committed a willful or knowing violation of any portion of the Environmental Protection Act is banned from doing business with the State or any state agency from the date of the order containing the finding until five years after that date.

"This additional penalty makes it clear that intentionally threatening the environment and health of our citizens is unacceptable," said Governor Blagojevich.

"Most businesses and companies follow our environmental laws because they know it helps them in the long run. Unfortunately, there are some companies that see pollution as just another cost of doing business," Madigan said. "This legislation doesn't make it harder to do business in Illinois – it makes it harder to pollute in Illinois. The state should not be doing business with companies that have been found to have willfully or knowingly violated the Environmental Protection Act."